



Town of South Bristol
6500 West Gannett Hill Road
Naples, NY 14512-9216
585.374.6341

Planning Board Meeting Agenda

Wednesday, December 4, 2019
7:00 p.m.

Call to Order

Pledge of Allegiance

Reading of Vision Statement

As stewards of both the land and the lake, we will preserve and protect our safe, clean, naturally beautiful, rural and scenic environment with thoughtfully planned residential, agricultural, recreational, and commercial development.

Meeting Etiquette

Minutes

Approval of October 16, 2019 Planning Board Meeting Minutes

Old Business

Proposed local law for short-term rentals

Review Code §170-38(C) request additional residential structures on same lot must have same postal address

Other

Motion to Adjourn

Town of South Bristol Planning Board Meeting Minutes Wednesday, December 4, 2019

Present: James Ely
Ralph Endres
Ann Jacobs
Sam Seymour
Michael Staub
Bessie Tyrrell

Excused: Mary Ann Bachman
Ann Marie Rotter
Matthew Sousa

Guests: Jeff Graff, Esq.
Dan Marshall
Stephen Cowley
Phil Sommer
Fred McIntyre
John & Judy Manzer

Call to Order

The meeting of the Town of South Bristol Planning Board was called to order at 7:00 p.m. followed by the Pledge of Allegiance. All board members were present except for Mary Ann Bachman, Ann Marie Rotter and Matthew Sousa.

Reading of Vision Statement

Board member, Ralph Endres, read the Comprehensive Plan Vision Statement.

Minutes

Chairman Ely called for a motion to approve the October 16, 2019 revised meeting minutes. Michael Staub made said motion, which was seconded by Ralph Endres. The motion was unanimously accepted by all board members present.

Old Business

2020 Meetings

Planning Board previously discussed combining November and December 2020 meetings into one meeting either December 2nd or December 9th.

A motion was made by James Ely to hold a combined November/December meeting on Wednesday, December 9, 2020 and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; J. Ely, R. Endres, A. Jacobs, S. Seymour, M. Staub, B. Tyrrell
Opposed: 0

Motion carried.

Proposed local law for short-term rentals

Chairman Ely: It is my hope tonight that we may be able to resolve on something and recommend it to the Town Board. The Town Board will ultimately decide and not this body. In that connection we have all received from Sam Seymour a number of suggested changes, but I think the most salient, as I understand it, I do not want to speak for Sam. I am going to let him talk in just a second. The most salient is how we define short-term rental. The present definition, of course, is anyone who rents for a period of between one night and 31 days. Sam thinks that should be altered. I am going to let him speak to that if that is okay Sam.

Sam Seymour: We have touched on this a couple of times the idea of backing off the requirement for everybody to have a permit to rent property whether they rent it for a week or a month. Somebody rents their house for two weeks a year would be exempt from the requirement to get a permit. That way the fellow that rents the deer camp in the hills does not have to go through all the inspections and pay for the permit and he can still rent his place out for the two weeks during the deer season when he gets his guys from Rochester to come down, or a place on the lake can rent a house for two weeks to offset some of the taxes that they pay. I think the burden of owning property in this town, in this state is pretty high already and we do not need to add to that. I would argue that the issues that have come to the town are really not with the long term neighbors or people who live in these places and rent for a short period of time. It is the high frequency rentals that are rented out year long.

Ralph Endres: We can talk about singling people out. The way the Second Amendment of the Constitution of the United States the law applies to everybody and the people that violate the law do not have pistol permits are not subject to any of those unless they are caught. What I am saying is I do not think it is too much if it is rented for two weeks or if it rented all summer long. I do not think that it is too much to comply with this law the way it is written. I understand what you are saying. There are a lot of people that rent their house. I think there are probably people who rent their house out a month or two months during the June to September period to help defray their taxes. I understand that. We are not prohibiting them from doing it. All we are doing is saying that they need to register with the Town and it be approved as a rental. I do not think we should make exceptions because when you make exceptions all you do it give people a reason to fight the law. If there are going to be exceptions, let the judges decide what exceptions there should be.

Michael Staub: It is not an exception. It is defining what constitutes short-term rental.

Ralph Endres: If you rent it for two days or two years.

Michael Staub: That is the time frame that we are talking about. We are not talking about two years or two months. We are talking about, in this case, two weeks and 31 days. If somebody wants to rent their cabin out for two weeks for hunters in the winter or two weeks in the summer to some relatives, I do not think they have to jump through all these hoops, but if they want to have a rental where they are going to have a lot of different people coming in and out then I agree with you, then they should.

Ralph Endres: If you make those exceptions, how do you expect to enforce?

Michael Staub: You do not go out after innocent people. If somebody breaks the law, you have already a law in place that states about the restrictions on short-term rentals or whatever.

Ralph Endres: How do you know it is one person that rented and has not been rented like this all summer long?

Michael Staub: If there were no complaints, no harm, no foul.

Sam Seymour: Yeah.

Ann Jacobs: All of these altercations with neighbors and owners around them somebody comes in for two weeks they can raise all kinds of hell.

Michael Staub: If they do and they are reported, then they come under the law.

Ralph Endres: They should be held to the same level of the law that everybody else who rents their place. No differences as far as I am concerned. I can understand why they are doing it. This is not a punishment.

Sam Seymour: Sure it is.

Michael Staub: Well it is.

Ralph Endres: I do not think that it is.

Sam Seymour: It is going to cost them several hundred dollars to execute a permit.

Ralph Endres: Then they charge more for rent. It is the American way. You can pass it on to the people who are going to be paying it.

Sam Seymour: One of the things that Dan Marshall brought up last meeting was the idea of the burden of the number of the people that will have to apply for permits on Phil, on the Planning Board, and on the Town. It is not something the Town is going to make money on. This is going to take a lot of time to execute and go through all these steps.

Ralph Endres: I do not think it was instituted to make money.

Sam Seymour: We are basically volunteers here.

Bessie Tyrrell: We get paid.

Ralph Endres: We have people throughout the Town that are really burdened with what is going on.

Sam Seymour: Yes.

Ralph Endres: It has devalued their property values.

Sam Seymour: Yes. I would argue that it is not a rental that gets rented for two weeks by their next door neighbor who they know and has to come back to that house. It's the absentee landlord who rents it out.

Ralph Endres: I agree with you there. I do not agree there should be an exemption because once you put an exemption in, it is unenforceable.

Michael Staub: No. It is not. You are setting a standard. It is not an exemption. That is what the law is supposed to do. It is supposed to set a standard and the standard does not go down to two weeks to your next door neighbor or your relative to your private property that you are renting out. That is personal business. It is your house. This is more a standard against those people who are absentee landlords who come in, acquire a property, and make it a party house. That is who we do not want to happen or if they are here we want them to abide by the standards in laws that we put forth.

Chairman Ely: I must say I am troubled by this proposal because I think it, as a practical matter, would gut the entire regulation. I think it would be very difficult to tell up front who is going to be renting for more or less than a thirty day period. We have had people in here complaining about situations that did not involve the commercial party houses, but other situations. A person could rent for two weeks. They could have a very obnoxious situation in there and they do not have to get a license under the proposed change. It seems to me, that administratively, we are not requiring all that burdensome a thing. The burden will be on Phil Sommer. We should have everyone who engages in short-term rental as defined in the law presently comply and take it from there. I do not see any basis to assume that somebody can rent for two weeks and they would not engage in unpleasant behavior during a two week period. I just think as a practical matter we have to have the law apply to everybody who is engaged in a short-term rental practice here. I would regret to say I cannot be supportive of this proposal. Phil, do you want to speak to this at all?

Phil Sommer: The only question that I have is if you do not have anybody who rents less than 31 days what law are you holding them to? You are not holding them to a short-term rental law because they have not registered. So what law are you holding them to? Nothing that I can see except the noise ordinance. You have not made a law. You have been talking about it and you start exempting 14 days, two days that they do not have to register then what ramifications do you have against them?

Ralph Endres: How do you even know it?

Phil Sommer: Exactly. So if they rent for a weekend they do not have to register? Where if they register, what does it say in there?

Ralph Endres: I live in the Harbour. I will bet on the cliffs most of the rentals are Friday, Saturday and Sunday.

Sam Seymour: That is year round and all summer long.

Phil Sommer: In that law you have if they break it they come to the board and get their permit revoked. So they cannot re-apply for a year. If they are not registered, anything under 31 days what do you have to hold against them. Nothing. As far as I see it.

Fred McIntyre: We have the same problem with our place out in Arizona. We have a condo out there and a condo association that you cannot rent to anybody under a month. We have a bunch of Airbnbs in there, which we cannot fine because they are not registered and what they tell the people when you approach them is just tell them you are here for a month. We have had places torn apart. We have had our pools ruined. We have had furniture thrown in pool. What happens when they have the football games out

there they come in and rent for a couple of days and they destroy property. If you are going to rent, they all should be registered. This way you can track it.

Ralph Endres: At least you have some control.

Fred McIntyre: Yes. You need to be able to track it.

Bessie Tyrrell: I know when Brian Zerges was here who rented thousands of properties is in the United States Association of Rentals Organizations said that there is no way to enforce unless you have registration for everybody so I go with what he has to say.

Chairman Ely: It is not that I think these requirements are terribly onerous. I assume that a vast majority of good faith people will easily be able to obtain their permits. The permit does give the Town some basis to enforce its rules visa via some modicum of civilized behavior in some of these situations. Some of the things that have been described to us are pretty unsavory.

Ralph Endres: Egregious.

Ann Jacobs: I was talking to Mary Ann before she left for Florida. We had come up with the idea possibly rather than everything coming before the Planning Board why would it not be possible to have certain applications go before the Zoning Board of Appeals?

Ralph Endres: They do not want them.

Bessie Tyrrell: That is where it all started.

Ann Jacobs: If you look at their schedule of meetings, they have openings.

Bessie Tyrrell: We really have more history on how to handle this. Do you know what I mean? If you looking at who would be better at doing it, it would probably be us.

Chairman Ely: I certainly sympathize with Ann's points. We did actually initially propose that and the reaction we got from the Zoning Board of Appeals was not affirmative.

Bessie Tyrrell: I went to that meeting and basically they were not supportive.

Ralph Endres: The first few of these public hearings as you do them, you could schedule three or four as most neighbors do not show up. You have the meeting and state the facts. We have the recommendation from our Code Enforcement Officer. If he has any special things that he things that should be done, he tells us and then we grant the permit based on what he tells us.

Ann Jacobs: I just thought maybe we could split the wealth.

Ralph Endres: I do not think it is cumbersome to a point that it is going to bog this Board down.

Bessie Tyrrell: I do not either.

Town of South Bristol Planning Board Meeting Minutes 12/4/19 Approved

Ralph Endres: I think March, April, May and June we are going to have our hands full, but I do not think it is anything we cannot do.

Ann Jacobs: Okay.

Chairman Ely: As I understand the proposal as it is now, an application will not get to this Board until Phil had made a review and a recommendation. We are going to be starting with the fact that the Code Officer had recommended it. Seems to me that usually no one comes to these meetings anyhow and we could put through a number of them in one evening very quickly because unless somebody raised an objection to Phil's report we could just vote on it and go to the next one.

Sam Seymour: Including a public hearing?

Ralph Endres: If it becomes burdensome we will have it on a separate night and do ten or twelve of them or whatever the back log is and get it done. Phil is the guy who is going to have all the work.

Bessie Tyrrell: He looks up to it.

Michael Staub: As it was brought up at the last meeting, what do we do to back Phil up? If Phil wins the lottery tomorrow and goes to Hawaii we are toast, right?

Chairman Ely: Dan Marshall wants to speak to that.

Dan Marshall: We have it in our budget for a second part-time code enforcement officer.

Chairman Ely: Very good. For that we get some relief. That would not kick in until next year, right Dan?

Dan Marshall: If things go as they typically do in the spring time Phil will be doing permits all day long. So he is going to need some help. We will have someone available.

Chairman Ely: So we would have a recommendation of the Code Officer before us whether it is personally Phil or another. Although we would hate to miss you Phil.

Dan Marshall: Technically we have a deputy code officer. We are using him on an as needed basis as of lately, but if this falls through the as needed will become fairly apparent.

Chairman Ely: Does anyone wish to speak further to this?

Michael Staub: A minor point was brought up by Sam about addresses for properties. Some of our properties sit way back and are not visible from the road so we should have addresses at the road and on the structure that is being permitted so that anyone like an inspector, fire, police or whoever can come up and identify the appropriate building from the road and when they come to the property.

Chairman Ely: There are a number of properties, my own certainly included, that you cannot see the house from the road at all. The mailbox has a number.

Ralph Endres: Sometimes there is a bank of mailboxes and the road goes different ways.

Michael Staub: If you have four or five driveways, you do not know who goes to where.

Phil Sommer: Mike brings up a good point. Being a fire fighter with some of these private roads and you do not know where you are going when you get a call. That is a good idea.

Michael Staub: It should be identified on the permit which house or building goes with the address.

Chairman Ely: So we can adopt that I think.

Dan Marshall: Tax map number?

Sam Seymour: That is part of the deed and the information that will be on the application.

Dan Marshall: The tax map number is also on OnCor so that is not a labor problem at all.

Sam Seymour: I think the question goes more to what Phil was talking about with emergency responders and things like that.

Michael Staub: If there is a complaint, they want to know which building to go to.

Sam Seymour: My point of comment was there are a lot of private driveways in the Town. There is no way you are going to see a house number or building number on a building from the road, but you will see it from the driveway if you in the driveway. So if there is a call to some driveway eventually you will see the buildings with the numbers on it. I think the point of the standard here for requirement was that the building be identified by the road number. Have the number on it so you can see it. My point is from the way the standard is written if you say it has to be legible from a road, well it is not going to work on a long driveway.

Chairman Ely: I can place a huge sign at my house, but you still could not see it from the road.

Sam Seymour: If there are two or four houses on your driveway, you want the building number on the building so when you drive in you see the right place.

Ralph Endres: I agree.

Chairman Ely: So aside from having the sign on the road, let say at a mailbox, would you require people to post a sign at their home?

Sam Seymour: You have the private drive name on the road. Those are already up all around the Town. Once you get to the driveway the standard says the house number should be on the house and visible from the road, but if the driveway is really long you cannot meet that requirement so if you include driveway there, then it becomes doable.

Ralph Endres: Yes. I agree.

Chairman Ely: We can agree on that, can we?

Bessie Tyrrell: Yes.

Michael Staub: Yes.

Ann Jacobs: Absolutely.

Sam Seymour: It still confuses me why there is an exception for rentals that are less than overnight. They are excluded from the short-term rental law.

Chairman Ely: If somebody rented it for eight hours in the daytime?

Sam Seymour: That is what the law says.

Chairman Ely: We can change it.

Michael Staub: Not less than one night and not more than 31 days.

Sam Seymour: So why do you have not less than one night in there? I can think of the example if you have 22 people who want to have a party and you rent it to each person for two hours and you are not renting to any one person overnight, but they get to stay there for 48 hours. Seeing how this came from Victor that might be in there because of a spa or tanning salon that rents a booth or room for a couple hours when somebody goes for a tan.

Chairman Ely: What if we just said lodging for a period of not more than 31 days? Take out the *not less than one night*. Would that do? Anytime period up to the 31 days.

Jeff Graff: Just while we are on that definition on the latest draft Diane had provided me we crossed out the reference to bedrooms.

Chairman Ely: Yes.

Jeff Graff: Because of the Airbnb situation where common rental is of a bedroom, I think it would be appropriate to have that definition at least include a dwelling unit *or part thereof*. Then if somebody just wants to rent a bedroom.

Chairman Ely: Or part thereof. Okay. Good point. There was a lot of concern to require elsewhere a maximum of twelve overnight. Incidentally everybody seems to agree with that. That was one of our more positive insights. We may have houses with more than six bedrooms, but this will cover it all, right? A dwelling unit or part thereof.

Bessie Tyrrell: Yes.

Chairman Ely: That should be an inclusive definition I would think.

Sam Seymour: Later on in paragraph E. Property Requirements. The number of people and the number of people per bedroom comes up in i. and j. so that is E.1. Property Requirements line i. and j. It is a little unclear. We are implying there is a maximum allowable limit of twelve overnight occupants in one house

in the Town. Then up to two people per bedroom so if you have a three bedroom house that means you are limited to six people overnight. Is that right? Is that what we want to say?

Bessie Tyrrell: Yes. Just that the septic system would be good for six people.

Sam Seymour: Everything else is based on the number of bedrooms it goes along with that.

Bessie Tyrrell: Right.

Sam Seymour: It is a little awkward the way it is phrased to get both the twelve person maximum and then the maximum of two people per bedroom. If you have fewer than six bedrooms.

Chairman Ely: It states that it shall not exceed twelve. That is the maximum more or less one of the things people seem to like. Based on a calculation for two people per bedroom. It should not exceed the twelve people total. So two people per bedroom and you have three bedrooms you can have six people.

Sam Seymour: Right. It just has to be a little clearer to say that.

Bessie Tyrrell: Well it seems clear to me.

Jeff Graff: The intention of that was to include both possibilities of somebody renting out an entire dwelling and somebody remaining in there and renting out a bedroom or two or three. So if you had a six person family that is living there, but they want to rent out three bedrooms. So those three bedrooms you would count at two people each for a total of six. The family is six that is the maximum twelve they are allowed to rent out all three bedrooms, but if you had a family of twelve and they had a spare bedroom they would not be allowed to rent out an extra bedroom because they already have twelve people in the house and any rental would allow a thirteen or fourteenth person in there. The wording was constructed to count the residents that will be remaining there, if any plus the possible number of short-term renters.

Sam Seymour: Given that all of septic designs are based on number of bedrooms you want to put twelve people in a three bedroom house?

Jeff Graff: I do not. We were trying to come up with some standards. This is not meant to get at a family of twelve in a three bedroom house. Well that is their right to do that, but that does not mean we have to let them bring in extra tenants under the short-term rental law to further tax their septic system. If they are overtaxing their septic system as their dwelling unit, that is on them. That is their expense to keep it up to snuff. We are trying to say if somebody comes in with an application that they are already at the maximum of ten people and trying to rent out two bedrooms we have to tell them you cannot rent out two bedrooms only one because that is going to bring you to twelve. If you rent out two bedrooms, that will bring you to fourteen. That was the intent of the drafting.

Dan Marshall: My point simply being is just because a house can sleep 26 people we still want to say the maximum number of people is twelve.

Chairman Ely: That is going to be the maximum. Please introduce yourself.

Judy Manzer: Judy Manzer. The septic would also determine if reducing even more if the septic was not built for twelve people well then they still could not have that max of twelve people. So i. and j. are either

or, right? What about day use? Is day use just not prohibited? There is no max. That is what the biggest problem is with us is day use.

John Manzer: I will just expand. I am John Manzer Judy's husband and Fred's neighbor. So in item j. I would propose deleting overnight occupancy on line three and just say occupancy because what happens is we can tell if somebody is quote local. "Guys you cannot believe this place. It is wild up here. Come on over." All day long and this is part of what we have an argument with the law enforcement person was that the newly installed noise ordinance the officer did not interpret it. He was all about the end of day hour. We are like no. We have it right here. It says during anytime throughout any 24 hour period that these people are doing their woohoo because of their corn-hole game like it is the super bowl every five minutes for seven hours straight that is a problem. The law addresses that in the noise ordinance. I am suggesting in item j. instead of saying overnight occupancy the maximum occupancy is twelve whenever. Forget overnight. During the day, at night whenever.

Chairman Ely: I read item j. in the event the property has a septic system the maximum occupancy shall be defined as terms of the septic system. Overnight occupancy, okay.

John Manzer: All we want is to delete overnight. Occupancy is occupancy whether it is overnight, all day long during the woohoo corn-hole game. People are still using the toilets.

Chairman Ely: Then overnight occupancy during the day might exceed twelve persons, right?

Judy Manzer: Right. That is what we are afraid of.

Chairman Ely: That is what you are concerned about right now. Okay. Now, of course, we are going to be addressing the issue of events, but suppose somebody has an engagement party for his daughter they might have more than twelve people there, right?

John Manzer: Our issue is and I am sure it is well documented. I sent some emails in. You have heard from Fred and us previously. We appreciate everything that you guys are doing to try to help not just us, but we understand it is a broad Town of South Bristol thing. I noticed that the special events portion of the last draft has been completely eliminated. I was told I believe Bessie had come to me after the meeting last time and said, "We are going to address that in a separate document." Is that the most prudent way to approach it? In other words when I talked to, and apparently Phil you did as well, Sean McAdoo in Victor. So the idea the other day to me is enforcement, enforcement, enforcement. I do not see any fines specified here, but what the Town of Victor actually got some teeth into this thing was through their special use permit. I do not know from a legal standpoint. I believe we have the attorney here. I do not know if it would be better to incorporate that into the short-term rental agreement or have that as an attachment to the short-term rental agreement. Whatever makes it streamlined, it does not allow lawyers to manipulate the language and gives us the maximum enforcement I think is what we need. The problem is and kind of a joke with the neighbors is basically they have been operating a mini Everwilde to reckless abandon. We are going to do what we are going to do. We are going to do it as often as we want to do it. It has become an event center beyond the normal kind of short-term rentals today.

Chairman Ely: Let me respond to one thing and I am going to let Phil further respond. This Board does not determine fines and fees that will be for the Town Board and, of course, there will be a process at the Town Board level. That will be addressed there. It is not our Board's responsibility.

Phil Sommer: John, Victor Planning Board does special use permits. Here the ZBA does and ZBA did not want to do this.

John Manzer: Excuse me. What is ZBA?

Phil Sommer: Zoning Board. They issue special use permits here in this town. That is why we came up with a permit to be able to rent. That was our way of getting around it.

Bessie Tyrrell: When you think about those people that have been causing so much trouble and what we are proposing now that first time they were noisy and someone complained that would revoke their license.

Ralph Endres: That could be grounds for revoking their license. If somebody wants to rent a place and have a small wedding, you can say in this law you need to get a special use permit besides being able to rent it. You will have to apply for a special use permit for that purpose of a wedding or whatever it happens to be.

John Manzer: I think that is a great approach because it should not happen that often. The owners of the property, as their kids get older, if they want to have a wedding we do not want to bust their chops. You cannot have a new animal house every Friday night. These people do not care who the last week's people were. They come in with a fresh attitude. They go off of 64 onto a dirt road and they think they are now in the middle of nowhere and frankly they have this entitlement mentality. Without getting into political correctness my wife and I are big campers and alleged rednecks. Blue collar people are ten times more respectful than these people. They come in their Lexus and BMWs and think they own the world. The attitude is just terrible. If there is an additional step for the rare occasion of an event like a wedding and I believe a wedding was the only exception in the past then we would be cool with it. The neighbors could get together and say you know what is it alright with you maybe we will make plans to go out of town that evening or have our own party. Not a big deal. As a course of business, this settling into it is okay to do whatever we want whenever we want. I think between the noise ordinance and what you are doing here I really appreciate it.

Chairman Ely: Let me explain further that we decided after considerable deliberation to spin out events into a separate regulation and to concentrate on what we had here was to establish a permit system for the short-term rentals, which is subject to revocation. I can assure you we will be turning our attention to the regulation of events and we may well pursue Ann Jacob's suggestion that we think that a special use permit would be appropriate and would give the Zoning Board something to do. That may well be what we would move forward with. The Zoning Board made it very clear they were not interested in enforcing the permit system. We are picking up the slack to do that. When we get to regulation of events, big party tents, etc. this sounds to me a lot more like a special use situation. That is fine. They would have to go to the Zoning Board of Appeals and get their special use permit. I am not saying they could not get it, but they would have conditions put on them.

Ralph Endres: They would know this when they are trying to rent the piece of property.

John Manzer: Or develop an additional piece of property.

Bessie Tyrrell: Right. That is why we are hurrying up so that they do not sell that. It is for sale that other piece of property.

Chairman Ely: Anything next we would like to address, members of the board?

Sam Seymour: Paragraph D. 5. A list of all property owners, tenants or residents of a short-term rental including names and addresses, telephone numbers, and email addresses of each. Does that include the people that are actually there renting the facility or is that just the owners and managers of the property?

Bessie Tyrrell: It is the owners and the managers. That is my understanding. That is who we are giving the permit to. That is who is responsible for this.

Sam Seymour: So tenants is a little misleading.

Bessie Tyrrell: It might be a rental property.

Sam Seymour: They sublet it.

Jeff Graff: The intent of that wording again is to identify who is actually in the property at the time the application is being sought or filed. Whether it is the actual owners living there. Whether they have tenants living there that are looking to Airbnb it. Whether it is not official tenants, but a resident such as an elderly Mom and Dad that let their son live on the property and he is looking to Airbnb it. We want the names of who is in the house on this list. That is the reason for wording property owners, tenants or residents to try to cover those scenarios.

Sam Seymour: So it is not necessarily the people who are renting it that weekend?

Jeff Graff: No. We are looking to establish the maximum occupancy. If we get told there is one permanent resident there that is going to stay, we know we can allow eleven people to rent it. If we know that there are ten people, we know we can allow one bedroom to rent. We are establishing that at the application stage.

Sam Seymour: You can see where my confusion is coming with the way I read it.

Jeff Graff: In looking at your comments I was thinking we could change it to read a list of all the *existing* property owners, tenants or residents of the *dwelling unit that is or contains the* short-term rental.

Ralph Endres: We had a case in Bristol Harbour where a house was rented and then it went on Airbnb to fill up the rest of the bedrooms by the renter. Not the landlord.

Sam Seymour: Yes. It was sublet.

Ralph Endres: Yes.

Jeff Graff: That is between the landlord and tenant if that is even allowed. We the Town cannot get into that.

Ralph Endres: Most leases, now at least, in Bristol Harbour have that clause in there that you cannot sublease it. That is to protect the owner.

Sam Seymour: And protect the neighbors.

Ralph Endres: Absolutely. It was right across the street from me.

Jeff Graff: Does that change work for you?

Sam Seymour: Yes.

John Manzer: Related to the broader names. I would call it legally responsible person. When you have an LLC boy do they know how to hide behind it.

Ralph Endres: Another LLC.

John Manzer: Another LLC or their partner. It is amazing how one is in Florida and one of them is in Jamaica. I do not care where they are. If we have a problem, you are the one. If we make it too broad, it leaves the door open for a lot. Who wants to chase these people down? Nobody.

Jeff Graff: That is in the next paragraph. The requirement is that they also include a name, address, telephone number and email of a contact person who shall be responsible.

John Manzer: I guess my point is we need to say legally responsible person or something.

Jeff Graff: If they had some handyman be the responsible person, it is ultimately the owner who is legally responsible. It is their property. They stand to be fined. This is going to be part of the zoning code. There are fines already established for the zoning law. This will also be subject to those same fines. The ultimate fine is the revocation or suspension of the permit losing them the ability to further rent it. The owner is ultimately legally responsible. If it ever came to try to enforce through the zoning law, that would ultimately be against the owners of the property whoever they may be whether they are individuals, corporations or whatever.

John Manzer: We have a situation where we informally agreed to a protocol if we have a problem they told us to call an 800 number. Ultimately on a service that says we will get back to you on Monday. No. I want something to happen now. It is Saturday night. It ties back into that enforcement piece. I am not going to wait to Monday and in between now and Monday maybe call the sheriff five more times because it is not urgent enough for you or your organization or legally responsible individual to deal with now. It may be in here. Maybe I am missing it. My experience is you strike when the iron is hot in terms of enforcement. The Town of Victor reinforced that. Other than that the more time goes by from an incident the more the details can be fuzzy and he said she said versus the cops are here and the legally responsible person is on the phone or physically there. Neighbors are all there. Okay, we have all the parties here now. We can do something or not. It lends itself to greater enforceability in my mind.

Chairman Ely: Jeff, can I ask one question? On number five list of property owners, tenants, etc. I am fine with that. What if the property owner is listed as an LLC?

Jeff Graff: That is the owner though.

Chairman Ely: But then you do not know who to contact, right?

Jeff Graff: That is the next paragraph of who the contact is, but in terms of who is the owner. We actually want to know is it an LLC, corporation, trust, estate, partnership. Who actually has the ownership interest

in the property? If you wanted to further get into the weeds and then say we want to know the shareholders of a corporation, the executor of an estate, a trustee of a trust, we can go down that road. It depends on what you are recommending that this law asks for.

Chairman Ely: I realize you can get very deep into this. I also understand you can use an LLC or corporation to somewhat disguise who owns what. It could be somewhat of a shell game in a sense. The contact person is, as you said a few moments ago, a local handyman. Say you contact that person and that person does not really have any authority. They are not the owner. Where does that leave us in terms of enforcement?

Jeff Graff: The enforcement is if there are problems that are defaults under the law then Phil brings a complaint or brings it to the Planning Board to determine whether there is a suspension or revocation of the permit. If the resident/tenant wants to continue renting this as a short-term rental, the idea would be they would retain somebody as their agent who is actually going to address the concerns because they are otherwise at risk of you revoking their permit. This is not to say there is not going to be problems, but whether those problems result in you revoking their permit. That gets at the question, so of course, we might have issues, but then those issues may go away because you take that person's ability to further rent their unit. It is no different than any other law. There could be violations of the law. No law can stop somebody from breaking it. If you want change that to require for an entity that is not a human being, then list who makes up the ownership of that LLC, partnership, corporation, joint venture, trust. There are any number of entities if you want to know who that person is under the veil, we can do it.

John Manzer: Forget the five, six, or ten layers of people. Have the primary person. Whoever it is or the structure is. They are the one signing the permit. That is all I care about, right? If they are the ones signing the permit, then they have signatory authority and they have legal authority. A single name in a line of ten names per property times how many properties you have to have permits for. Make that main person sign the document and provide their details. Not a post office box, not an LLC. What is your personal residence and contact number then you do not have to deal with all those layers.

Jeff Graff: Again, this is already asking for there to be a contact person. It says they can be an owner or agent. I suppose that can be part of the Planning Board's review if somebody is trying to pass off some LLC as the agent, you could say, no thank you.

Ralph Endres: Not acceptable.

Jeff Graff: We need a human being that is going to answer a phone. That is not guaranteeing on a Saturday night, there is actually going to be an answer to the phone. They may be on vacation themselves or out sick or whatever. Again, that creates a violation that could end up with you. There is no guarantee the person named here is actually going to remedy the violation, but we hope that they will.

Ralph Endres: At least we have somebody representing the owners.

Jeff Graff: You hope. Yes.

Ralph Endres: You can talk to.

Jeff Graff: Right.

Chairman Ely: Do you have other questions or concerns?

Fred McIntyre: I want to ask you a question about the event legislation you are going to do. That is going to apply to all registered rental properties, correct? Not just one day or 31 days that they cannot have an event without a special permit or whatever you are going to do?

Jeff Graff: This has nothing to do with special events.

Fred McIntyre: No. What I am asking about is these event centers, like the guy next door that we have. It does not matter how many days he is renting the property if he is registered and he goes and has an event without prior authorization he can lose his permit.

Jeff Graff: I do not know about his event center. This is for dwelling units.

Fred McIntyre: Right. The guy next door has a dwelling unit that he uses for special events. We had a 160 person wedding this past September and then we had another one with 65 people. We average anywhere from 48-50 people a weekend over there. This is a rental. How do we make sure if he registers under a rental, how are we going to prevent him from using that way without a special permit or something?

Ralph Endres: If he has six bedrooms, he can have twelve people there.

Bessie Tyrrell: More than twelve he loses his license unless he has a special permit.

Chairman Ely: He would have to have a special use permit, which would presumably put limitations on people, activities, and hours.

Fred McIntyre: I am just trying to figure out in my mind how you say you are going to have this event center ordinance. How is that going to work? The special events thing.

Jeff Graff: There may be amendments to this depending on where this Board and Town Board goes to what they want. It may require that some of this language gets amended so that it ties into together. This is the foundation and if they want to supplement special events, we may have to revisit this.

Dan Marshall: Is there something in our current zoning about mass gatherings already?

Phil Sommer: Yes, but it does not pertain to residential. I already looked into that. They would have to go to the Town Clerk for that.

Bessie Tyrrell: Oh okay. A march or parade of some kind.

Dan Marshall: Thank you.

Phil Sommer: We need to do something.

Chairman Ely: Any other points people would like to raise or discuss? Well that being resolved we made a number of modifications here with some very helpful and constructive suggestions and good discussion. Thanks Jeff certainly for coming. I would like to propose as we have modified it this evening that we

recommend this law to the Town Board for its consideration and their own processes. I know that some of you had reservations about parts of it and, of course, you are welcome to not support or conditional support as you see fit, or press reservations to the Town Board directly. I think we as a Board and certainly Phil have spent hours on this subject. I think that we are reaching a point we are beginning to spin our wheels. We have other things that we have to get on to anyhow in January.

A motion was made by Bessie Tyrrell to recommend to the Town Board adopting the proposed short-term local law and said motion was seconded by Michael Staub.

All in favor.

Aye: 5; J. Ely, R. Endres, A. Jacobs, M. Staub, B. Tyrrell

Opposed: 1; S. Seymour

Motion carried.

Resolution 4-2019

At a meeting of the Planning Board of the Town of South Bristol on the 4th day of December 2019, it was:

RESOLVED, that the South Bristol Planning Board recommends that the South Bristol Town Board take appropriate steps to add the proposed short-term rental local law attached hereto.

Dated: December 4, 2019

By Order of the Planning Board of the Town of South Bristol.



Diane Scholtz Graham
Planning Board Assistant

Short-term Rentals.

Article VI. Supplementary District Regulations

§ 170-71 Short-term rentals.

A. Legislative intent. The purpose of this section is to control and regulate the use of short-term rentals within the Town. The provisions of this section are intended to preserve and protect the health, character, safety, and general welfare of the residential neighborhoods where such uses may exist, and to mitigate the adverse effects of short-term rentals.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ADJACENT PROPERTIES

- (1) Other than as defined in paragraph (2), this shall mean properties, parcels, lots or units situated near or next to, adjoining, contiguous or abutting the subject property, whether on the same side of the road, across the road or behind the subject property; and
- (2) When the subject property is a condominium unit that is a portion of a building containing condominium units on multiple floors with multiple condominium units on each floor, this shall mean all condominium units on the same floor as the subject property and also those condominium units adjoining directly above and below the subject property.

HABITABLE SPACE

The spaces in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, storage or utility spaces, garages, halls and laundry rooms are not considered habitable spaces.

OWNER

Person(s) and/or entity(ies) that hold(s) legal and/or equitable title to the short-term rental.

SHORT-TERM RENTAL

- (1) A dwelling unit or part thereof rented for compensation of lodging by individuals for a period of not more than thirty-one (31) consecutive days.
- (2) For the purpose of this Chapter, the term "short term rental" shall not include a bed-and-breakfast, boarding/lodging house, hotel or motel.
- (3) Presumption of dwelling unit as short-term rental property.
 1. The presence of the following shall create a presumption that all or a part of a dwelling unit is being used as a short-term rental:
 - a. All or a part of the dwelling unit is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away, VRBO and the like for a period of less than 31 days; and/or
 - b. All or a part of the dwelling unit is offered for lease in any medium for a period of 31 days or less.
 2. The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer that the dwelling unit is not a short-term rental.
- (4) Ongoing month-to-month tenancies are not short-term rentals.

C. Required Permit.

1. An owner shall obtain a revocable short-term rental permit prior to any dwelling unit being used for short-term rental purposes.
2. A short-term rental permit shall be valid for two (2) years and must be renewed upon expiration as long as the unit is used as a short-term rental.
3. The short-term rental permit is not transferable to a new owner. The new owner of property subject to a short-term rental permit must file a new application in accordance with the terms of this Section as if such property is not subject to a short-term rental permit.
4. No dwelling unit that was constructed as a single-family dwelling, two-family dwelling, multiple-family dwelling, dwelling with a business or dwelling above a first floor business after the enactment of this article shall be eligible to apply for a short-term rental permit for two (2) years after the issuance of the certificate of occupancy unless, at the time the application for the initial building permit for such dwelling is filed, an application for a short-term rental is also filed.

5. Notwithstanding the foregoing, those properties with short-term rental commitments existing on the date this section takes effect shall be permitted to honor such existing commitments and continue to make commitments for short-term rentals, but must apply, within thirty (30) days of the effective date, for all future short-term rental commitments. In the event such application is denied, all commitments must be cancelled.

D. Short-term Rental Permit Application Requirements.

Applications for a short-term rental permit may be obtained at the Town of South Bristol Code Enforcement Office. A completed application for or renewal of a short-term rental permit shall be submitted to the Code Enforcement Officer, accompanied by payment of a nonrefundable permit fee to be determined from time to time by resolution of the Town Board, and contain at least the following:

1. The signatures of all tenants and/or residents of the dwelling unit to which the short-term rental permit would apply and the signatures of all owners.
2. A copy of the current vesting deed showing how title to the subject property is currently held.
3. Permission for a property inspection by the Code Enforcement Officer.
4. An acknowledgement of present and ongoing compliance with the Short-term Rental Standards as defined in this Section, including, but not limited to, the demonstration of adequate off-road parking spaces for the dwelling unit with proposed short-term rental.
5. A list of all the existing property owners, tenants and/or residents of the dwelling unit that is or contains the short-term rental, including names, addresses, telephone numbers and email addresses of each.
6. The name, address, telephone number and email address of a contact person, who shall be responsible, and authorized, to act on the owners' behalf to promptly remedy any violation of the standards outlined in this Section. The contact person may be an owner or an agent designated by the owner(s) to serve as a contact person.
7. An accurate suitable floor plan measuring at least 8.5 inch by 11 inch, drawn to scale and certified by the applicant. The floor plan need not be prepared by a professional, but must include the following:
 - a. The location of buildings and required parking.
 - b. Basement, to include house utilities, all rooms including bedrooms, windows and exits.
 - c. First floor - all rooms with exits, windows, bedrooms and any heating/cooling units.
 - d. Second floor - all rooms including exits, windows, bedrooms and any heating/cooling units.
 - e. Attic, if any, with all rooms including exits, windows, bedrooms and any heating/cooling units.
8. A statement that none of the owners of the subject property have had a short-term rental permit revoked within the previous year.

All completed applications are subject to a Floor Plan Review and Approval by the Planning Board. Upon approval of the application, the Code Enforcement Officer shall grant a short-term rental permit.

E. Short-term Rental Standards.

All short-term rentals shall meet the following standards:

1. Property Requirements
 - a. Smoke and Carbon Monoxide Detectors - There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
 - b. Emergency Evacuation Procedures - Evacuation procedures must be posted in each sleeping room to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting or other alarm device.
 - c. ABC Fire Extinguishers:
 - i. There shall be an ABC fire extinguisher on each floor and in the kitchen.
 - ii. Fire extinguishers shall be inspected monthly by the permit holders.
 - d. The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.
 - e. Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
 - f. Electrical systems shall be inspected by a third party electrical inspector to ensure no visual defects or unsafe conditions prior to initial rental permit application.
 - g. All fireplaces shall comply with all applicable laws and regulations.
 - h. The property containing the proposed short-term rental must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application.
 - i. The maximum occupancy for each short-term rental unit shall not exceed two (2) people per bedroom shown on the floor plan included with the application and the maximum occupancy of any dwelling unit that is or contains a short-term rental shall not exceed twelve (12) people total, based on the calculation of two (2) people per bedroom and counting all existing tenants and residents of the dwelling unit plus the possible number of renters of the short-term rental.
 - j. In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any dwelling unit that is or contains a short-term rental unit exceed twelve (12) people, based on the calculation of two (2) people per bedroom and counting all existing tenants and residents of the dwelling unit plus the possible number of renters of the short-term rental.
2. Insurance and Registration Standards
 - a. All applicants and permit holders must provide a "Evidence of Property Insurance" and "Certificate of Liability Insurance" indicating the premises is rated as a short-term rental and maintain such insurance throughout the term of the short-term rental permit.
3. Provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or odors, and placed where they are not clearly visible from the road except around pick-up time.
4. Rental Contract. All applicants and permit holders must have a rental contract which includes the following policies/statements:
 - a. Maximum Property Occupancy
 - b. Maximum on Site Parking provided

- c. Good Neighbor Statement stating:
 - i. That the short-term rental is in a residential area in the Town of South Bristol and that renters should be conscious of the residents in neighboring homes;
 - ii. A statement that guests must comply with the Noise Law of the Town of South Bristol as set forth in Chapter 113 of the Code of the Town of South Bristol;
 - iii. All renters will be subject to New York Penal Law §240.20 or any successor statute regarding disorderly conduct;
 - iv. A statement that littering is illegal; and
 - v. A statement that all fires must be attended.

F. Procedure upon Filing Application.

1. Short-term rental permit applications shall be filed with the Town of South Bristol Code Enforcement Officer with all supporting documentations and the nonrefundable permit fee. Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer may decline to accept an application for consideration for any of the following reasons:
 - a. Application and documentation required by this Section was not included or the full permit fee paid.
 - b. If the Town of South Bristol issued a short-term rental permit to any of the owners needing to sign the short-term rental permit application and any of such owners had a short-term rental permit revoked within the previous year.
2. Upon the Code Enforcement Officer's acceptance of the completed permit application, all documents and information required by this Section and the application fee, the Code Enforcement Officer shall have thirty (30) days to conduct a property inspection to certify and approve that all short-term rental requirements have been met.
3. Within thirty (30) days of inspection and certification of the short-term rental application by the Code Enforcement Officer, the Code Enforcement Officer will schedule with the Town of South Bristol Planning Board a floor plan review.
4. The Town of South Bristol Planning Board will review the Short-term Rental Application/Preliminary Floor Plan and feedback from Code Enforcement Officer to ensure that it meets all requirements as outlined in this Section.
5. Upon review of the accepted completed Short-term Rental Application by the Town of South Bristol Planning Board the Planning Board will schedule a public hearing as outlined in Section 170-94 of this Chapter within thirty (30) days. Public hearings will be advertised at least five (5) days prior to the hearing date in a newspaper of general circulation as outlined in Section 170-94 of this Chapter.
6. Upon completion of the public hearing the Town of South Bristol Planning Board will approve, with or without conditions, or disapprove the Short-term Rental permit. In issuing a short-term rental permit, the Town Planning Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the use of the property for short-term rentals so long as such conditions and restrictions are consistent with the requirements of this Chapter and are imposed for the purpose of minimizing any adverse impact the short-term rental unit may have on the neighborhood or community.

7. Upon approval of the Floor Plan Review/Short-term Rental Application by the Town of South Bristol Planning Board, the Code Enforcement Officer will issue the applicant a short-term rental permit. Short-term rental permits issued pursuant to this Section shall state the following:

- a. The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and of a primary contact person who shall be available during the entire time the short-term rental property is being rented;
- b. The maximum occupancy and vehicle limits for the short-term rental unit;
- c. Identification of the number of and location of parking spaces available;
- d. Any conditions imposed by the Planning Board and/or Code Enforcement Officer.

8. The short-term rental permit holder shall provide a copy of the short-term rental permit to the owners on record of all properties adjacent to the short-term rental property by either personally delivering or sending by first class mail such copy to such owners at the address the Town Assessor has on file for each such adjacent property for the sending of property taxes. Regardless of the number of owners of any adjacent property, the short-term rental permit holder shall only need to serve one copy for each adjacent property by a method provided in the preceding sentence. The short-term rental permit holder shall provide to Code Enforcement Officer within 30 days of when the permit is issued a statement of compliance with this provision, stating the owners served and the method of service (e.g. mail, personal delivery).

G. Conformity and Display of Permit.

1. Short-term rental permit is subject to continued compliance with the requirements of these regulations.

2. If the Code Enforcement Officer has probable cause to believe that the home owner is not in compliance with the provisions of the Zoning Law, the Code Enforcement Officer may petition a court of competent jurisdiction for a search warrant to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this section. Alternatively, the Code Enforcement Officer may request permission from an owner of the short-term rental permit to come onto the property and to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this Section, which permission the owners of the short-term rental are under no obligation to give. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to revoke the permit.

3. Prior to any tenants coming onto the short-term rental property:

- a. The current short-term rental permit shall be prominently displayed inside and near the front entrance of the short-term rental; and
- b. A copy of the current list of short-term rental properties will be provided by the Code Enforcement Officer to the Fire Department having jurisdiction.

4. The owners must ensure that current and accurate information is provided to the Code Enforcement Officer and that they notify the Code Enforcement Officer immediately upon any change in the information displayed on the permit. If, based on such changes, the Code Enforcement Officer issues an amended short-term rental permit, the owners must immediately replace the permit displayed inside and near the front entrance of the short-term rental with the amended permit and must immediately provide a copy of the amended permit to every adjacent property owner as required in paragraph F.8. herein.

5. The short-term rental permit holder must conspicuously display the short-term rental permit number in all advertisements for the applicable short-term rental.

H. Compliance, Hearings and Penalties.

1. Violations of this Section or of any short-term rental permit issued pursuant to this Section shall be subject to enforcement and penalties prescribed in this Chapter, as amended.

2. If the Code Enforcement Officer either witnesses or receives a written complaint of an alleged violation of this Section or of any short-term rental permit issued pursuant to this Section, the Code Enforcement Officer shall refer such matter to the Planning Board along with a copy of the complaint, if applicable, a written report, if any, pertaining to any investigation and/or inspection conducted relative to the alleged violation and any other facts or documents pertaining thereto. The Planning Board shall schedule a hearing to be held within 30 days and mail, by first class mail to the address(es) provided on the short-term rental application, written notice thereof to the owners and residents of the subject property no less than ten (10) days prior to the date of the hearing. At the conclusion of the hearing, the Planning Board shall determine if the terms of the short-term rental permit or the regulations contained in this Section were violated and, if it finds that there was a violation or violations, the Planning Board may take the following actions:

- a. Attach reasonable conditions to the existing short-term rental permit;
- b. Suspend the short-term rental permit; and/or
- c. Revoke the short-term rental permit. Should a permit be revoked, none of the owners of the short-term rental unit may obtain any short-term rental permit sooner than one (1) year after the date of revocation.

I. Application for Renewal of Permit.

1. Application for renewal of the short-term rental permit is due thirty (30) days prior to expiration and requires payment of renewal fee.

2. At the time of application for renewal, landlord, owner, or designated agent, if applicable, must present the previous permit for short-term rental.

3. The property must have undergone an inspection performed by the Code Officer, and all violations must be remedied prior to renewal of a permit for short-term rental.

4. Upon completion of the above items Code Enforcement Officer will issue a two (2) year permit renewal.

J. Grounds for Suspension or Revocation of Permit.

The Planning Board may suspend or revoke a short-term rental permit by application from the Code Enforcement Officer based upon, among others, any of the following grounds:

1. Applicant has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of property, or registration of property owner.

2. Applicant violated any provision of this section during the term of the short-term rental permit.

3. Applicant or any tenant violated any provisions of the Code of the Town of South Bristol.

4. Applicant or any tenant violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of the short-term rental unit.

5. Any conduct on the premises, which is unreasonable under the circumstances and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.

6. Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.

Review Code §170-38(C) request additional residential structures on same lot must have same postal address

This item was deferred to the next meeting.

Motion to Adjourn

Being no further business, Michael Staub made a motion to adjourn the meeting and it was seconded by Ralph Endres. The motion was unanimously accepted and the meeting was adjourned at 8:05 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane S. Graham".

Diane Scholtz Graham
Board Assistant